

underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 95

48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008

INTRODUCED BY

Ray Begaye

AN ACT

RELATING TO TRIALS; EXPANDING THE EXEMPTION FROM JURY SERVICE;
AMENDING A SECTION OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 38-5-2 NMSA 1978 (being Laws 1973,
Chapter 150, Section 1, as amended) is amended to read:

"38-5-2. EXEMPTION FROM JURY SERVICE--EXCUSALS--SERVICE
OF DISQUALIFIED JUROR.--

A. A person who has served as a member of a petit
jury panel or a grand jury in either state or federal courts
within the preceding thirty-six months shall be exempt from
sitting or serving as a juror in a court of this state when the
person requests to be exempted from service by reason of the
exemption granted by this subsection.

B. A person may be excused from jury service at the

underscored material = new
[bracketed material] = delete

1 discretion of the judge or the judge's designee, with or
2 without the person's personal attendance upon the court, if:

3 (1) jury service would cause undue or extreme
4 physical or financial hardship to the prospective juror or to a
5 person under the prospective juror's care or supervision;

6 (2) the person has an emergency that renders
7 the person unable to perform jury service; ~~[or]~~

8 (3) the person presents other satisfactory
9 evidence to the judge or the judge's designee; or

10 (4) the person is:

11 (a) an expectant mother or a mother who
12 is currently breastfeeding;

13 (b) a caregiver for elderly or disabled
14 persons who is scheduled or expected to provide care at the
15 time of the required jury service; provided, however, that the
16 provisions of this subparagraph do not apply to a caregiver who
17 provides care through employment or as the caregiver's normal
18 course of business;

19 (c) a person participating in a cultural
20 or religious practice or ceremony not exceeding thirty days in
21 length; or

22 (d) a legislator during any time the
23 legislature is in session.

24 C. A person requesting an exemption or an excuse
25 from jury service shall take all necessary action to obtain a

.171477.2

1 ruling on the request no later than the date on which the
2 person is scheduled to appear for jury duty.

3 D. The judge, in the judge's discretion, upon
4 granting any excuse, may disallow the fees and mileage of the
5 person excused.

6 E. The service upon a jury of a person disqualified
7 shall, of itself, not vitiate any indictment found or any
8 verdict rendered by that jury, unless actual injury to the
9 person complaining of the injury is shown.

10 F. As used in this section and Section 38-5-1 NMSA
11 1978, "undue or extreme physical or financial hardship":

12 (1) means circumstances in which a person
13 would:

14 (a) be required to abandon another
15 person under the person's care or supervision due to the
16 extreme difficulty of obtaining an appropriate substitute
17 caregiver during the period of jury service;

18 (b) incur costs that would have a
19 substantial adverse impact on the payment of necessary daily
20 living expenses of the person or the person's dependent; or

21 (c) suffer physical hardship that would
22 result in illness or disease; and

23 (2) does not exist solely because a
24 prospective juror will be absent from employment."